

The Honorable Jamal N. Whitehead

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

CHRISTIAN J. HEBERT,

Defendant.

NO. CR 23-143 JNW

PROTECTIVE ORDER

This matter comes before the Court on the United States' Motion for a Protective Order regarding discovery materials, as permitted by Fed. R. Crim. P. 16(d). Having considered the record and files herein, the Court finds there is good cause to grant the motion, and hence:

IT IS HEREBY ORDERED that the discovery materials discussed in the Motion for a Protective Order and referred to therein as "Protected Material," marked specially as "Protected Material," may be produced to counsel for the defendant in this case. The "Protected Material" includes PowerPoint training materials generated by Federal Protective Service (FPS) counsel.

IT IS FURTHER ORDERED that possession of Protected Material is limited to the attorneys of record in this case and their staff, and to any investigators, expert witnesses, and

1 other agents the attorneys of record retained in connection with this case. The attorneys of
2 record, and their investigators, expert witnesses, and other agents can review Protected
3 Material with the defendant. The defendant can inspect and review Protected Material, but
4 shall not be allowed to possess, photograph, or record Protected Material or otherwise retain
5 Protected Material or copies thereof.

6 IT IS FURTHER ORDERED that defense counsel shall not provide Protected
7 Material or copies thereof to any other person outside his or her law office, including the
8 defendant or their family or associates, except as outlined in this order. Upon agreement of
9 counsel for the government, members of a defense team may provide copies of specific
10 Protected Material, or redacted versions of such material, to the defendant. When seeking
11 the government's agreement to give such a copy to a defendant, members of the defense
12 team will identify with reasonable particularity, including (where available) the specific
13 Bates-numbered pages and or recording descriptions, the specific material defense counsel
14 proposes to give to the defendant. Unless expressly stated otherwise by the government,
15 copies of Protected Material to be provided to the defendant will continue to be Protected
16 Material subject to all of the protections of the Court's Order, with the sole exception that a
17 copy can be given only to the defendant (and not shared with anyone else outside the defense
18 team). If counsel for the government and counsel for the defendant cannot reach agreement
19 on whether particular portions of the Protected Material or redacted versions of Protected
20 Material should be given to a defendant under these conditions, defense counsel may raise
21 the issue with the Court by way of a motion.

22 Defense counsel may provide a copy of the Protected Material to the Federal
23 Detention Center (FDC) to facilitate the defendant's review of the Protected Material. The
24 defendant residing at the FDC is permitted to review the Protected Material, consistent with
25 the regulations established by the Bureau of Prisons, with or without counsel in a controlled
26 environment at the FDC, but is prohibited from printing out, copying, or disseminating the
27 discovery. If the defendant is later on pretrial release, he is permitted to review the Protected

1 Material at the offices of their counsel, but is prohibited from printing out, copying, or
2 disseminating the discovery.

3 IT IS HEREBY FURTHER ORDERED that the defendant, defense counsel, and
4 others to whom disclosure of the content of the Protected Material may be necessary to assist
5 with the preparation of the defense, shall not disclose the Protected Material or its contents,
6 other than as necessary for the preparation of defenses at trial and in subsequent appellate
7 proceedings. Specifically, the attorneys of record and members of the defense team
8 acknowledge that providing copies of the Protected Material to the defendant and other
9 persons is prohibited and agree not to duplicate or provide copies of the Protected Material to
10 the defendants and other persons other than as outlined in this order. This order does not
11 limit employees of the United States Attorney's Office for the Western District of
12 Washington from disclosing the Protected Material to members of the United States
13 Attorney's Office, federal law enforcement agencies, the Court, or witnesses in order to
14 pursue other investigations or the prosecution in this case. Nor does it limit employees of the
15 United States Attorney's Office for the Western District of Washington from disclosing the
16 Protected Material to the defense as necessary to comply with the government's discovery
17 obligations.

18 Nothing in this Protective Order prohibits defense counsel from showing the
19 Protected Material, or reviewing its contents, with the defendant or with others to whom
20 disclosure may be necessary to assist with the preparation of the defense at trial and in
21 subsequent appellate proceedings.

22 IT IS FURTHER ORDERED that if counsel for any party finds it necessary to file
23 any documents marked as Protected Material, the material shall be filed under seal with the
24 Court. This provision does not entitle either party to seal their filings as a matter of course.
25 The parties are required to comply in all respects with the relevant local and federal rules of
26 criminal procedure pertaining to the sealing of court documents.

27 Nothing in this Order shall prevent any party from seeking modification of this
Protective Order or from objecting to discovery that it believes to be otherwise improper.

1 The parties agree that in the event that compliance with this Order makes it difficult for
 2 defense counsel to adhere to their Sixth Amendment obligations, or otherwise imposes an
 3 unworkable burden on counsel, defense counsel shall bring any concerns about the terms of
 4 the Order to the attention of the government. The parties shall then meet and confer with the
 5 intention of finding a mutually acceptable solution. In the event that the parties cannot reach
 6 such a solution, defense counsel shall have the right to bring any concerns about the scope or
 7 terms of the Order to the attention of the Court by way of a motion.

8 Nothing in this Order should be construed as imposing any discovery obligations on
 9 the government that are different from those imposed by case law and Rule 16 of the Federal
 10 Rules of Criminal Procedure. The failure to designate any materials as provided in
 11 paragraph 2, above, shall not constitute a waiver of a party's assertion that the materials are
 12 covered by this Protective Order.

13 This Protective Order does not constitute a ruling on the question of whether any
 14 particular material is properly discoverable or admissible and does not constitute any ruling
 15 on any potential objection to the discoverability of any material.

16 IT IS FURTHER ORDERED that at the conclusion of the case, the Protected Material
 17 shall be returned to the United States, or destroyed, or otherwise stored in a manner to ensure
 18 that it is not subsequently duplicated or disseminated in violation of this Protective Order.

19 The Clerk of the Court is directed to provide a filed copy of this Protective Order to
 20 all counsel of record.

21 DATED this 12th day of January 2024.



22 Jamal N. Whitehead
 23 United States District Judge

24 Presented by:

25 s/ Sanaa Nagi

26 SANAA NAGI

27 Assistant United States Attorney